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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,023	06/21/2001	Takehito Kimata	2635-22	4404

7590

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EXAMINER

CYGAN, MICHAEL T

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,023

Applicant(s)

KIMATA ET AL.

Examiner

Michael Cygan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-8 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 08 January 2003 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda (EP 932,039 A2). Noda discloses a gas sensor comprising a housing [3] with an air side cover [18] attached to a proximal housing end and enclosing an aerial atmosphere, and a gas side cover [6a,6b] attached to a distal housing end and confining a measured gas; within the housing rests a cylindrical insulator [4] having a gas sensor element [2] having opposing surfaces held in a through-hole (which has

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differently sized diameter portions) of the insulator by a sealing element [32] and a cushion element [33,34]. See Figure 1; column 3, line 44 through column 4, line 9; column 6, lines 31+.

Noda does not disclose the features of claims 1 and 2 pertaining to the ranges of 5N-1000N and of 10%-80%. With respect to claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to withstand shock forces of such ranges, as Noda teaches the desirability of withstanding shock forces (column 1, lines 23-26; column 2, lines 5-9; column 5, lines 17-52), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). With respect to claim 2, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a filling percentage of such ranges, as Noda teaches the desirability of compressing the cushion material (column 7, lines 33-37), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

3. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda (EP 932,039 A2) in view of Kuisell (US 5,817,920). Noda teaches the claimed invention except for the range of 5N-1000N and an insulator comprised of separate bodies. With respect to the range of 5N-

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1000N, it would have been obvious to one having ordinary skill in the art at the time the invention was made to withstand shock forces of such ranges, as Noda teaches the desirability of withstanding shock forces (column 1, lines 23-26; column 2, lines 5-9; column 5, lines 17-52), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). With respect to the insulator, Kuisell discloses a gas sensor having an insulator comprised of separate bodies attached at their ends by a glass spacer (Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an insulator comprised of separate bodies attached to each other by a spacer as taught by Kuisell in the invention disclosed by Noda to form the insulator which holds the gas sensing element, since this would result in increased shock resistance by mechanically decoupling the seal from the outer shell.

Allowable Subject Matter

4. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, since the prior art neither discloses nor fairly teaches an injection port in combination with the claimed limitations.

Response to Arguments

5. Applicant's arguments filed 08 January 2003 have been fully considered but they are not persuasive. Applicant argues that neither applied reference teaches a cushion filler provided at an element insertion hole such that it is at the other side from a seal provided at the element insertion hole. However, Noda teaches such a seal/cushion configuration (32 and 34; Figure 1) in the same manner as shown in the instant application (applicant's 219 and 218; Figures 1-3), as set forth in the rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is 703-305-0846. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 703-305-4816. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

MTC

Michael Cygan
May 5, 2003


EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
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